

**U.S. Department of Labor**

Board of Contract Appeals  
1111 20th Street, N.W.  
Washington, D.C. 20036



DATE: November 19, 1987  
CASE NO.: 86-BCA-30

In the appeal of

NATIONAL COUNCIL OF NEGRO WOMEN, INC.,  
Appellant,

v.

U.S. DEPARTMENT OF LABOR,  
Respondent

**ORDER**

*In consideration of the Contracting officer's motion for Leave To File his Response to Appellant's Notion for Partial Summary Judgment out of Time, good cause having been shown; and Appellant's Opposition to the Motion, there being shown no prejudice on this record, it is this 19th day of November, 1987,*

*ORDERED that the Motion be granted.*

*Appellant's Motion for Partial Summary Judgment contends that certain defects in the Contracting Officer's Final Decision dated May 22, 1986, entitle Appellant to a favorable Partial Summary Judgment on the merits of issues related to U.S. Department of Labor (DOL) Grant No. 99-02541-31-61 (the "Grant"). The Final Decision in question determined that certain questioned costs identified in Audit Report No. 11-4-236-03-350 relating to certain identified contracts, including the Grant, were not allowable, and that DOL could take debt collection action on the total amount of the disallowed costs. Appellant challenges the Contracting Officer's legal authority to disallow the costs or make decisions regarding the Grant, since the Contracting Officer purported to be acting under the authority of the Contract Disputes Act of 1978 (the "Act"). Appellant also asserts that the Final Decision is defective because it failed properly to apprise Appellant of its rights to appeal the decision related to the Grant.*

*The Respondent Contracting Officer contends that this Board*

lacks subject matter jurisdiction over issues related to the Grant and should dismiss, without prejudice, all matters in this case relating to the Grant. The Respondent concedes that the advice of appeal rights regarding the Grant decision was defective, but contends that the defect should only provide justification for Appellant's failure to file an appeal relating to the Grant with the proper tribunal.

The facts regarding the description and scope of the Respondent's Final Decision and the fact that it purported to disallow costs and to make determinations related to the Grant are not in dispute. The Grant was identified in the Final Decision as a grant, not a contract, and there is no dispute as to its status.

The record before the Board indicates that it does not have jurisdiction over questions related to the Grant and that the appeal, to the extent that it involves issues related to the Grant, should be dismissed without prejudice. Jurisdiction is appropriately retained regarding those issues related to the contracts which are properly the subject of the Contracting Officer's Final Decision under the Act.

WHEREFORE it is this 19th day of November, 1987,

ORDERED that Appellant's Motion for Partial Summary Judgment be denied; that Respondent's Motion To Dismiss Without Prejudice be granted; and that the appeal from the Contracting Officer's Final Decision, to the extent that it relates to DOL Grant No. 99-0-2541-31-61, is hereby dismissed without prejudice for lack of jurisdiction. The Contracting Officer's Motion for Leave to File his First Amended Prehearing Statement is granted with leave to amend within a reasonable time to take account of this Order.

EDWARD TERHUNE MILLER  
Administrative Law Judge